

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

TECHHEALTH, INC.,

Plaintiff,

v.

CIVIL ACTION NO. 2:09-cv-00788

WEST VIRGINIA EMPLOYERS' MUTUAL
INSURANCE COMPANY, et al.,

Defendants.

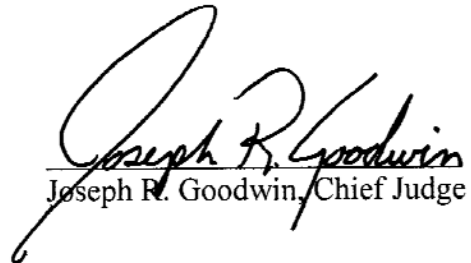
MEMORANDUM OPINION AND ORDER

Pending before the court are the defendants' motions to dismiss [Docket 20, 21]. The motions are **DENIED**. To survive a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.* Rather, "[f]actual allegations must be enough to raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555.

The court has considered the parties' submissions and concludes that the plaintiff has stated claims for which relief can be granted. Furthermore, the court rejects the argument by defendant Sedgwick that the case must be dismissed for failure to join a required party. The defendants'

motions to dismiss [Docket 20 and 21] are **DENIED**. The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: April 29, 2010



Joseph R. Goodwin, Chief Judge